



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Natural Resources

TITLE-SERIES: 58-46

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: DEFINING THE TERMS USED IN ALL HUNTING
AND TRAPPING

CITE STATUTORY AUTHORITY: §20-1-7(31)

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/10/2019 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Wendy L. Greene

ADDRESS: 324 4th Avenue, Room 343

South Charleston, WV 25303

EMAIL: dnrcomments@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule defines terms to be applied to all rules concerning the regulation of hunting and trapping within the boundaries of this State.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Due to the passage of HB2715 during the 2019 Regular Legislative session relating to Class Q permits, the definition of "individual permanently disabled in the lower extremities" is no longer necessary. An additional change is the addition of the definition of crossbow.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There are no anticipated changes to revenue.

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

There are no anticipated changes to administrative costs.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

There are no anticipated changes to administrative costs or revenue.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Wesley H White -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 58
LEGISLATIVE RULE
DEPARTMENT OF COMMERCE
DIVISION OF NATURAL RESOURCES

SERIES 46
DEFINING THE TERMS USED IN
ALL HUNTING AND TRAPPING

§58-46-1. General.

1.1. Scope. -- This rule defines terms to be applied to all rules concerning the regulation of hunting and trapping within the boundaries of this State.

1.2. Authority. -- W. Va. Code § 20-1-7(~~3031~~).

1.3. Filing Date. -- ~~May 11, 2015~~.

1.4. Effective Date. -- ~~May 11, 2015~~.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

§58-46-2. Definitions.

2.1. "Aggregate" means the total bag or possession limit of similar kinds of game animals or game birds. For example, the possession limit for squirrels is 24 after the third day of the open season. This could be 10 gray squirrels and 14 fox squirrels, or 14 gray squirrels and 10 fox squirrels, or any combination of 24 squirrels, but not more than a total of six per day nor more than a total of 24 in possession.

2.2. "Antlered Deer" means deer having at least one antler that is over three inches in length, as measured from the hairline.

2.3. "Antlerless Deer" means deer having no antler that is over three inches in length, as measured from the hairline.

2.4. "Bait" means shelled, shucked, or unshucked corn, wheat or other grain, or any other feed or edible enticement.

2.5. "Baiting" means the direct or indirect placing, exposing, depositing, distributing, or scattering of bait so as to constitute for wildlife a lure, attraction, or enticement to or on any areas where hunters are attempting to take them. An area is considered baited for 10 days after the removal of the bait.

2.6. "Concurrent Hunting" means hunting of the same and/or other species during a legally prescribed season.

~~2.7. "Individual Permanently Disabled in the Lower Extremities" means an individual who is permanently and totally disabled due to paralysis or disease in the lower half of the body, which makes it impossible to ambulate successfully more than two hundred feet without assistance.~~

~~2.7.~~ 2.7. "Crossbow" means a device consisting of a bow fixed transversely on a stock, the string of which is released by a trigger mechanism and propels a bolt.

~~2.8.~~ 2.8. "Licensed Adult" is an individual who has attained the age of 18 years, and possesses a valid West Virginia hunting and trapping license or is exempt from having to purchase a West Virginia hunting and trapping license.

~~2.9.~~ 2.9. "Muzzle-loader", for the purpose of deer hunting, means a single shot muzzle-loading firearm having a bore diameter of not less than thirty-eight one-hundredths of an inch.

~~2.10.~~ 2.10. "Possession" means game taken in this State which is in any way under the control of the hunter (i.e., the total of all game in a vehicle, home freezer, commercial food locker, or other storage place).

~~2.11.~~ 2.11. "Prevailing Time" means either Eastern Standard Time or Eastern Daylight Time as established by the United States Congress.

~~2.12.~~ 2.12. "Protected" means no open season (i.e., hunting protected wildlife is illegal at all times).

~~2.12.a.~~ 2.12.1. Protected mammals include those mammals covered by federal regulations under the Endangered Species Act of 1973, as amended.

~~2.13.~~ 2.13. "Public Lands" means lands owned, leased, licensed, managed under cooperative agreement with or under the control of the Division for wildlife management purposes.

~~2.14.~~ 2.14. "Trap" is a device that is used to catch and hold animals. A trap may be legally used during the trapping season to catch fur-bearing animals and coyotes. The term includes leg foot hold traps, killer type or body gripping traps, box traps, encapsulating traps and snares. Legal and illegal traps are further defined in the Division's Rule W. Va. Code of State Rules, Series 58 Title 53, General Trapping Rule 58 C.S.R. 53.

~~2.15.~~ 2.15. All other terms have the meaning prescribed in W. Va. Code § 20-1-2.